



OGC 80-07494

2 September 1980

MEMORANDUM FOR: Director of Central Intelligence

FROM: Daniel B. Silver  
General Counsel

SUBJECT: APEX Secrecy Agreement--Your Meeting  
with Secretary Muskie

*DCI covered  
w/ Muskie - 9/2*

1. This is simply to bring you up to date on developments regarding the APEX secrecy agreement in preparation for your forthcoming meeting with Secretary of State Muskie.

2. I received a call this morning from Jim Michel of the State Department Legal Adviser's office. He advised me that the language of the draft APEX secrecy agreement attached to your letter of 29 August 1980 to Secretary Muskie did not contain the revisions agreed between our two offices. I checked; he is perfectly correct. This was simply an error on our part. It is being corrected on the attachments to the NFIB memorandum, so that State Department will have been the only recipient of the erroneous version. I assured Michel that we would make the correction and that we are not reneging in any fashion on our position.

3. Michel indicated to me twice that the Legal Adviser's office is in full agreement with the APEX secrecy agreement as revised. He said that he is forwarding a memorandum to Secretary Muskie, in preparation for your meeting, indicating that Bob Owen and he are in full agreement with the language of the APEX secrecy agreement and that, consequently, there is no further dispute between State Department and CIA on this issue. This is good news and I think we should go along with them in treating the matter as entirely settled.

4. For your background information there continue to be indications that they may be working indirectly with Lloyd Cutler to induce Lloyd to raise objections to the agreement. I think, however, we should take their protestation of approval at face value. If no department or agency appeals the agreement to the NSC, it is unlikely Cutler will find any forum to advance any views he may have.

OGC Has Reviewed

Daniel B. Silver

cc: SA/DCI/C

18 July 1980

MEMORANDUM FOR: Director of Central Intelligence

FROM: Daniel B. Silver  
General Counsel

SUBJECT: APEX Nondisclosure Agreement

REFERENCE: Your Memo for the Record dated 17 July 1980

1. On receiving your memorandum for the record, I called Roberts Owen, State Department Legal Adviser, and told him that I thought Secretary Muskie had been given a somewhat exaggerated picture of the scope of prepublication review required by the APEX nondisclosure agreement.

2. We discussed the matter and I pointed out to him that the agreement would not, for example, require prior review of a Foreign Service officer's writings about the Senate Foreign Relations Committee's views on SALT II unless they purported to discuss SCI intelligence or activities (e.g., the extent of U.S. monitoring capabilities). I told Owen that it would be difficult to change the language of the agreement to clarify all possible applications, but that we were undertaking to issue policy guidance within the Agency on the scope of our own employee secrecy agreement and that issuance of a similar document with respect to the APEX nondisclosure agreement seemed to me to be an idea worth considering and one that possibly could serve to allay many of the exaggerated fears that have been expressed. Owen expressed interest in this approach. I agreed to send him the current draft of CIA policy that we are working on in our Office, solely for illustrative purposes. We will then get together some time next week to see if we can iron out the matter.

3. With respect to the Justice Department, I think we would be well advised to let the matter rest for the moment until we have resolved it with State. If we can allay State's fears, it will be easier to deal with the Attorney General on this issue.

  
Daniel B. Silver

cc: DDCI  
SA/DCI/C

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